

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
FOURTH REGION**

GENUARDI'S FAMILY MARKETS LP<sup>1</sup>

Employer

and

Case 4–RC–20402

UNITED FOOD AND COMMERCIAL  
WORKERS INTERNATIONAL UNION,  
LOCAL 464A, AFL-CIO<sup>2</sup>

Petitioner

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, a hearing was held before a hearing officer of the National Labor Relations Board, herein called the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.
3. The labor organization involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The Employer operates a chain of retail food markets, including a supermarket in Barnegat, New Jersey (the Supermarket). The Petitioner seeks to represent a unit of all Meat and Seafood Department employees at the Supermarket (the M&S Department), including the Meat

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<sup>1</sup> The Employer's name appears as amended at the hearing.

<sup>2</sup> The Petitioner's name appears as amended at the hearing.

Backup, Meatcutters, Meatwrappers, Seafood Backup, and Seafood Clerks. The Employer contends that the only appropriate unit is a wall-to-wall unit of all non-supervisory employees.

### *Background*

The Supermarket has cashier stations in the front, grocery and produce shelves in the middle, and various departmental areas around the perimeter of the store, including Customer Service, Food Service, Bakery, Non-Perishables, Produce, and the M&S Department. There are about 115 employees at the Supermarket, but only about 40 of them work full time. The Supermarket is open to the public from 6:00 a.m. until midnight Monday through Saturday and 6:00 a.m. until 10:00 p.m. on Sunday.

Paul McCloskey is the Supermarket Manager and is in charge of the entire store. Doug Emmet, the Associate Manager, is in charge of hiring and also gives a brief orientation presentation to each new employee.<sup>3</sup> Assistant Managers are in charge of the different departments in the Supermarket. Assistant Manager Bill Samarco supervises the M&S Department.<sup>4</sup> Samarco schedules, evaluates and disciplines employees, orders products, oversees the daily activities of M&S employees, and stocks shelves. Once a week, from 5:00 p.m. to 10:00 p.m., he is responsible for the entire Supermarket. Backups assist in overseeing their respective departments throughout the Supermarket. Backups throughout the store earn between \$7.25 and \$15.65 per hour.

### *The M & S Department*

The M&S Department is located on the north side of the Supermarket and includes multiple coolers and freezers, cutting and wrapping areas, and separate meat and seafood customer service counters. The 10 M&S Department employees include one Meat Backup/Meatcutter, three Meatcutters, three Meatwrappers, one Seafood Backup,<sup>5</sup> and two Seafood Clerks. The Meatcutters and Backups are full-time employees, while all of the Meatwrappers and Seafood Clerks work part time.

The M&S Department's weekly sales are about \$40,000 for meat products and \$5,000 to \$6,000 for seafood. Approximately 55% to 60% of meat sales are for "case ready" goods, which need no cutting at the Supermarket. Another 30% of sales are of "boxed" meats that must be cut.<sup>6</sup> Approximately 60 to 70 meat boxes are delivered each day, including about 25 boxes of chicken, 20 boxes of beef, four to five boxes of pork, and several boxes of hot dogs, veal and lamb.<sup>7</sup> The boxes of meat vary in weight from 8 pounds for veal cutlets to 65 pounds for beef.

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<sup>3</sup> Currently, the Supermarket has a hiring freeze, and Emmet spends four out of every five days at other locations for the Employer.

<sup>4</sup> The parties stipulated that Samarco is a supervisor as defined in Section 2(11) of the Act.

<sup>5</sup> Although the Employer contends that certain Backups in the Supermarket are statutory supervisors, there is no contention that the Meat or Seafood Backups are supervisors.

<sup>6</sup> The 30% estimate is consistent with photographs showing the Employer's display cases. About one-third of the meat to be cut consists of "bone cuts," which require use of a saw, and two-thirds are boneless cuts of fresh meat.

<sup>7</sup> The boxed meat comes into the Supermarket in Cryovac bags. Wholesale cuts are sub-primal cuts of boneless meat sold directly in the bags. Currently, wholesale cuts represent only about 1% of the

Beef, lamb and pork cuts are classified as either primal or sub-primal. Primal meat consists of large pieces, such as whole round of beef or whole chuck, and sub-primal meat is primal meat cut into smaller pieces, such as an eye roast.<sup>8</sup> According to Samarco, meat sales consist of about 30% beef, 30% chicken, 10% pork, 10% ground beef, 10% hot dogs and bacon, 5% frozen meats, 5% ham, 4 to 5% sausage, and 1% veal and lamb.<sup>9</sup> The M&S Department maintains the frozen meats in the frozen food section and some smoked meats in the Dairy Department.

All of the Meatcutters had meat cutting experience prior to their employment at the Supermarket. One Meatcutter had between 15 and 20 years of experience, two others each had about 10 years experience, and the remaining Meatcutter had about two years experience. To be hired, Meatcutters are required to demonstrate their skills at a four-hour job assessment, at which they must cut different meat types, using various knives and saws, into different shapes and sizes. Meatcutter Rich Chmara testified that he was told that he was hired because he was a skilled meatcutter. In cutting meat at the Supermarket, Meatcutters use various techniques, including boning, scraping, facing, squaring off, trimming, angling, seaming and chiming. At times, they use four different sizes of knives,<sup>10</sup> as well as handsaws, grinders, cubers, and a tenderizer machine. There is no formal apprenticeship program for Meatcutters at the Supermarket, but after they are hired, Meatcutters occasionally receive training on meatcutting techniques. They also receive bulletins instructing them on sale items and on how to cut and present various products. Their salary range is between \$10.00 and \$16.05 per hour, although all Meatcutters currently earn at least \$14.00 per hour.

Meatcutters are generally scheduled to work various hours between 7:00 a.m. and 8:00 p.m. A Meatcutter typically begins the day by assembling the department's equipment, which takes about 15 minutes. He or she then examines the sales cases and determines which products need replenishing. During this process, the Meatcutter also discards expired meats, reduces the price on older meats, and uses a Telexon gun to report and record this information. In the morning, a Meatcutter further grinds coarsely ground beef from tubes, a task that may take up to two hours. Each day, Meatcutters spend about 60% to 80% of their time cutting meat. One Meatcutter usually is assigned to the service counter to wait on customers for about two hours. In addition, Meatcutters service customers at the seafood counter for about 15 to 30 minutes a day. They also spend between 30 and 45 minutes per day stocking shelves and cases and about 30 minutes per day making prepared foods such as chicken cordon bleu and stuffed pork chops. Meatcutters also wrap meats for an average of about 15 minutes per day, depending on the availability of Meatwrappers.<sup>11</sup> Towards the end of their shifts, Meatcutters clean the department for about 45 minutes by washing the floors, sanitizing the work areas, and disassembling and cleaning the equipment. Meatcutters close the entire M&S Department,

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Supermarket's meat sales. The Supermarket plans to institute a program entitled "Beef In The Bag" to promote the sale of wholesale cuts.

<sup>8</sup> The M&S Department receives its meat and seafood from C&S, the Supermarket's primary food supplier.

<sup>9</sup> Samarco testified from memory and did not purport to provide exact figures as to these percentages.

<sup>10</sup> Until recently, the Meatcutters provided their own knives, but the Employer has purchased new plastic-handled knives for them.

<sup>11</sup> Two or three times a week, if a Meatwrapper is unavailable, a Meatcutter will spend the majority of the day wrapping. On other days, Meatcutters may not wrap meat at all.

including the seafood section, two to four times per week.<sup>12</sup> On Mondays, a Meatcutter cleans the meat cases, a task that takes about half an hour.

The three Meatwrappers all work part-time. Their wage scale is from \$6.75 to \$13.10 per hour.<sup>13</sup> Their duties include wrapping and pricing meat, weighing chicken, waiting on meat customers, stocking meat products, and assisting in M&S Department cleaning. Meatwrappers need no experience to be hired. The Meatwrappers must know the type and cut of meat to be wrapped in order to affix the proper price to the package. They learn this information by receiving instructions from the Meatcutters and through experience. Meatwrappers use a meat wrapping machine, a “Super Wrapper” for the waste products, a hand wrapper for smaller items, dollies, protective gloves and scales.

The Seafood Backup performs essentially the same work as the Seafood Clerks, except that she does more seafood ordering. In the morning, Seafood Clerks move the fish from coolers to the fish cases and review the inventory. Thereafter, they service seafood customers by taking the customer’s order, weighing the fish, wrapping it, and affixing a price label.<sup>14</sup> The Seafood Clerks also make some prepared foods, including steamed lobsters and deep-fried crabs and shrimp. When deliveries arrive during the day,<sup>15</sup> Seafood Clerks place fresh products in the cooler and frozen products in the freezer. In the evening, they remove fish from the cases. Seafood Department employees also clean their area, including the counter and floors, and sometimes assist Meat Department employees in cleaning their area. Seafood Department employees use a scale, knives, wrapper, dollies and cleaning equipment including a hot water steamer for the floors and tables. The Seafood Department employees’ wage scale is from \$6.75 to \$13.10 per hour. The Seafood Department’s hours of operation are 8:30 a.m. to 8:00 p.m.

### *Other Supermarket Departments*

#### *Food Service*

About eight Food Service Clerks work in the Food Service Department, which includes a café area, pizza shop, sandwich shop, salad bar, and hot food stand. The Food Service Department is supervised by the Food Service Assistant Manager and is located in the western and southwestern part of the Supermarket. Customers eat the food purchased in the Food Service Department at the café. The Food Service Clerks prepare the foods in their respective areas, weigh, price and wrap their products, interact with customers, and clean their work area and equipment. The Employer prefers to hire Pizza Makers with previous experience; no experience is needed for the other Food Service Clerks.<sup>16</sup> Food Service employees use scales, a pizza oven, a rotisserie oven, a grill and a slicer. Their pay scale is between \$6.75 and \$13.10 per hour. They are scheduled to work at various hours between 8:00 a.m. and 8:00 p.m.

#### *Deli*

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<sup>12</sup> When closing the meat section, employees wrap the ground beef, a task that takes only a few minutes.

<sup>13</sup> As indicated below, several other employee classifications are subject to this wage scale. The record does not indicate where the Meatwrappers or other employees fall within this scale.

<sup>14</sup> Several times a day, when no employee is available at the meat customer service counter, seafood employees will also service the meat customers.

<sup>15</sup> The primary seafood vendors are C&S and Hopkins Seafood.

<sup>16</sup> The record does not indicate the Pizza Maker’s wages.

In the northwest corner of the Supermarket is the Deli Department, which has a customer counter and a preparation area. Approximately 12 Clerks work in the Deli Department at times between 7:00 a.m. and 10:00 p.m. Deli clerks prepare foods, weigh, price and wrap the food, service customers, stock merchandise, and clean their area.

### *Bakery*

About 10 Bakery Clerks, including a Cake Decorator, bake, decorate, price and wrap their goods, respond to customer requests, place merchandise in display cases, and clean their area. The Bakery is open from 6:00 a.m. to 8:00 p.m., and Bakery Clerks work between 4:00 a.m. and 8:00 p.m. The Bakery Clerks do not prepare products “from scratch,” but heat up frozen products in an oven. The Employer seeks prior experience for the Cake Decorator. Bakery Clerks use slicers, dollies, knives, scales, and cleaning equipment.

### *Customer Service*

The Customer Service Department is comprised of three subdepartments, Cashiers and Customer Service Attendants (CSAs), the Courtesy Office and the Pricing Department. About 25 Cashiers staff the cash registers at the front of the Supermarket, and 10 CSAs are responsible for bagging groceries, maintaining the parking lot, collecting shopping carts, cleaning spills, and collecting trash. The Cashiers’ pay scale is \$6.75 to \$13.10 an hour. CSAs earn between \$6.00 and \$7.65 per hour.

There are approximately eight Courtesy Office Clerks who work in the front of the store answering customer questions, selling lottery tickets and cigarettes, handling product returns and replacing Cashiers when needed. Cashiers, CSAs, and Courtesy Office Clerks are scheduled to work whenever the Supermarket is open for business.

The two Pricing Clerks and one Pricing Backup input prices and data into the computer system, create and post advertising signs, and record employee time and attendance information.<sup>17</sup> Pricing Clerks are scheduled to work between 7:00 a.m. and 3:30 p.m.

### *Non-Perishables*

The Non-Perishables Department is comprised of the Grocery, Dairy/Frozen,<sup>18</sup> Night Crew, and Receiving subdepartments. The Non-Perishables Assistant Manager oversees the entire department. The Department’s employees unload delivery trucks and bring the goods to the appropriate area using different types of jacks.

The eight Grocery employees stock the shelves, clean the rear storage room and receiving area, make cardboard bales, answer customer questions, and bag groceries as needed.

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<sup>17</sup> The Employer contends that Pricing Clerks are confidential employees and the Pricing Backup is a supervisor.

<sup>18</sup> The record does not indicate why the dairy and frozen food subdepartment is classified as “non-perishable.”

The Dairy/Frozen Department Clerks are scheduled to work between 2:30 a.m. and 10:00 p.m. in shifts between four and eight hours. They stock and clean dairy and frozen food shelves and answer customer questions. Grocery Clerks, Dairy/Frozen food clerks, and Night Crew employees all are paid pursuant to the \$6.75 to \$13.10 pay scale.

The Night Crew consists of a Night Crew Leader, a Backup and eight Clerks. Their primary responsibility is to take products from storage and stock the shelves. They also organize the shelves, respond to customer requests, and assist in cleaning the Supermarket. They are scheduled to work between 10:00 p.m. and 6:00 a.m. The Night Crew employees' pay scale is \$6.75 to \$13.10 per hour, plus an additional 74¢ per hour differential for working at night. The Employer tests Night Crew employees before hiring them by observing their work on a full shift to ensure that they are in good physical condition and have adequate strength to lift heavy boxes.

Receiving employees work in the receiving area in the rear of the Supermarket. They check-in all deliveries, enter the deliveries into a computer to generate a bill, and identify damaged goods. There are two Receiving Clerks and one Backup.

### *Produce*

The Produce Department is located next to the M&S Department on the east side of the Supermarket and includes the Floral Department. Produce employees stock the merchandise on the shelves and in the coolers. Approximately eight Clerks work in the Department, including one Floral Clerk. The Employer prefers to hire Floral Clerks with prior experience, but the starting wage rate for this position is \$7.25 for a full-time employee or \$6.75 for a part-time employee. Produce Department employees are overseen by a Produce Backup and are scheduled to work between 5:00 a.m. and 6:00 p.m. They use jacks, electric jacks, hand jacks, trucks, and dollies.

### *M&S Department Employees' Interaction With Other Supermarket Employees*

Some M&S Department employees have contact with other Supermarket employees, but this contact is not extensive. Occasionally, M&S Department employees will assist other Supermarket employees in carrying deliveries to their departments, and on rare occasions, employees from other departments perform tasks in the M&S Department. Meatcutter Rich Chmara testified that other employees, "don't come into our department. There's really no need for them back there."

Several Meat Department employees have regular duties elsewhere in the Supermarket. Meatwrapper Olga Marowski works in the Food Service Department, at the pizza stand, about three or four days per week. Seafood Clerk Debbie Biddulph works as a CSA two or three days per week. Every Friday, Meatcutter Chmara participates in the Supermarket's Electronic Slip/Fall Prevention (ESP) program by walking throughout the Supermarket once an hour checking for spills and debris for about 10 to 15 minutes. Once a week, the M&S Department is responsible for operating the Supermarket's bailer, a machine which compacts cardboard refuse.

All Supermarket employees participate in "huddles," which are brief gatherings to review Supermarket policies. Huddles occur randomly and may include anywhere from two to thirty employees. M&S Department employees generally participate in the huddles only with other

M&S Department employees, although every few months they may also huddle with other Supermarket employees.

The Supermarket distributes the same application forms and new employee introductory material to all of its employees. The employee handbook identifies policies applicable to all employees, including overtime, premium pay, problem resolution procedures, job postings, performance appraisals, attendance and discipline. All employees are entitled to the same benefits package, including health insurance options, a stock purchase plan, life insurance, and disability insurance. All non-supervisory employees are paid hourly and by check. The Employer has a newsletter that it distributes to all employees, and the Supermarket has several social events each year to which all employees are invited. All employees are required to wear Employer-issued badges and uniforms. They wear khaki pants, a white shirt, and a black apron. Employees in the Food Service areas must wear a hat, and M&S Department employees wear a white coat. All employees have access to the same restrooms and break areas.

### *Analysis*

#### *The Legal Standard*

In several recent cases, the Board found that meatcutters, together with other meat department employees, constituted a separate appropriate unit as measured by the Board's traditional community-of-interest test. *Wal-Mart Supermarkets, Inc.*, 328 NLRB 904 (1999); *Super K Mart Center*, 323 NLRB 582 (1997);<sup>19</sup> *Scolari's Warehouse Markets, Inc.*, 319 NLRB 153 (1995).<sup>20</sup> In *Super K Mart Center* and *Scolari's Warehouse Markets*, the Board approved separate units combining meat and seafood employees, while in *Wal-Mart Supermarkets, Inc.*, the Board found appropriate the petitioned-for unit of only meat department employees. In those cases, the Board analyzed the actual work performed by the meatcutters in order to determine whether they exercised substantial, traditional meatcutter skills and whether these skills are distinct from those of other employees. The Board measured community-of-interest based on the following factors: (1) the portion of the employer's meat department business that involves boxed meat, rather than case ready meat; (2) the application of specialized meatcutting skills necessary for the processing of the boxed meat; (3) the extent of the meatcutters' training; (4) whether a substantial percentage of the unit is engaged in skilled meatcutting work; (5) whether the unit is separately supervised; (6) the extent of interchange and transfers between meat department employees and other supermarket personnel; and (7) whether employees in the proposed meat department unit receive higher wages than other supermarket employees. *Scolari's Warehouse Markets*, 319 NLRB at 158; *Super K-Mart Center*, 323 NLRB at 586; *Wal-*

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<sup>19</sup> The Board's decision and rationale in this case was approved in *Super K Mart Center v. NLRB*, 174 F.3d 834 (7<sup>th</sup> Cir. 1999).

<sup>20</sup> The Board had historically held that meat department units were presumptively appropriate because the meatcutters were craftspersons who exercised a broad range of traditional meatcutter skills, such as cutting whole animal carcasses into primal and subprimal sections and certain boning, trimming and seaming techniques. See e.g., *R-N Market, Inc.*, 190 NLRB 292 (1971). Later, the Board found that retail supermarket meatcutters who do not handle carcass meat, but rather boxed and case ready meat, exercised fewer of the traditional meatcutter skills, and therefore were no longer entitled to the presumption of appropriateness historically afforded to craftsperson meatcutters. See, e.g., *Kosher Plaza Supermarket*, 313 NLRB 74 (1993); *Hall's Super Duper*, 281 NLRB 1116, 1117 (1986).

*Mart Supermarkets, Inc.*, 328 NLRB at 904-905. Accordingly, this Decision shall apply each of these criteria to the petitioned-for unit.

*Application of the Legal Standard to the Petitioned-For Unit*

Approximately 30% of the Employer's meat sales consist of boxed meats that must be cut and 10% consists of ground beef, which must be put through a grinder. This percentage is less than in *Wal-Mart Supermarkets, Inc.*, 328 NLRB at 907 (57.4%), and *Scolari's Warehouse Markets*, 319 NLRB at 157 (50%), but similar to the percentage of boxed meat in *Super K-Mart Center*.<sup>21</sup>

Meatcutters exercise different skills than other Supermarket employees. They use equipment unique to the M&S Department, including handsaws, grinders, cubers and a tenderizer machine, and they must know how to assemble the tools and disassemble them for cleaning. Although some other Supermarket employees use knives in their work, unlike the others, Meatcutters use four different types of specialized knives to perform at least seven different cutting techniques and to produce over 100 different types of meat cuts. No other employees at the Supermarket have a comparable level of specialized skill.

The Meatcutter position requires extensive training and experience. All of the Meatcutters had considerable experience prior to their hire, and the Employer told Meatcutter Chmara that he was hired because he was a skilled meatcutter. While the Employer prefers Pizza Makers and Floral Clerks to have experience and has advertised for a skilled Cake Decorator, there is no evidence that their experience is comparable to the Meatcutters, all but one of whom have at least 10 years in the industry. Moreover, the Employer does not require experience for any other employees. Further demonstrating the skills and training expected of the Meatcutters is the four-hour pre-hire test, in which applicants are required to demonstrate proficiency in cutting boxed meats. This requirement is far more stringent than hiring requirements for any other jobs at the Supermarket. In addition, other training is provided to the Meatcutters at the Supermarket. The absence of a formalized apprenticeship program in the M&S Department is not significant, as the record shows that each Meatcutter possessed substantial experience at the time of hire. *Wal-Mart Supermarkets, Inc.*, *supra*, 328 NLRB at 907; *Super K Mart Center*, *supra*, 323 NLRB at 588.

The Meatcutters constitute a substantial portion of the M&S Department staff. Thus, four out of 10 total employees (40%), and four out of five full-time employees (80%), are skilled meatcutters. In comparison, in *Wal-Mart Supermarkets, Inc.*, 57% of the unit engaged in skilled meatcutter work, 328 NLRB at 907, in *Scolari's Warehouse Markets*, the percentage was 75%, 319 NLRB at 157, and in *Super K Mart Center*, it was about 25%. 323 NLRB at 588.

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<sup>21</sup> The Employer contends that ground beef should not be factored into this analysis because less skill is involved in grinding meat than in cutting it. However, the Board in *Wal-Mart Supermarkets, Inc.* indicated that in analyzing the percentage of skilled work, ground beef is considered the same as boxed meat. 328 NLRB at 907.

The Employer's additional contention that the percentage of boxed meat is less than 40% if seafood is considered is also without merit, because the Board has not combined seafood with meat when considering the percentage of boxed meats in the other cases. Moreover, the Meatcutters use their skills to cut some of the fish, such as salmon steaks.



Supermarket Manager McCloskey and Associate Manager Emmet are generally in charge of all employees at the Supermarket, but on a day-to-day basis, M&S Department employees are separately supervised by Assistant Manager Samarco. Samarco is responsible, among other things, for their scheduling, evaluations and discipline.

There is not very much contact between the M&S Department employees and other Supermarket employees. M&S Department employees do not substitute for other Supermarket employees, and there is no evidence of any transfers of employees from or into the M&S Department. The fact that two less-skilled M&S Department employees work part-time in other areas of the Supermarket does not demonstrate significant employee interaction as those employees' other jobs have no relation to their positions in the M&S Department. There is occasional contact with other employees during group huddles, but most huddles occur strictly within the M&S Department. M&S Department employees at times interact with other employees in the Supermarket's breakroom and bathrooms, when picking up vendor deliveries in the Receiving area, and when Chmara participates, once a week, in the Supermarket's spill prevention program. Overall, however, the M&S employees' interaction with other Supermarket employees is insubstantial.

The Meatcutters' pay rates are higher than those of employees in other departments. No current Meatcutter earns less than \$14 per hour, while most other employees are paid pursuant to a wage scale at which they start at \$6.75. Even the Floral Clerk, who is expected to be experienced upon hire, only receives about half of the wage rate of an experienced Meatcutter.

Therefore, considering all of the above criteria, I find that the M&S Department employees share a community-of-interest distinct from other Supermarket employees and meet the Board's standards for finding a separate meat and seafood department unit appropriate. A significant portion of the Employer's meat department business involves boxed meats, and the Meatcutters exercise a substantial degree of traditional meatcutting skills, which is far greater than the skill of other Supermarket employees. The skilled Meatcutters constitute a significant portion of the proposed unit. The M&S Department employees have separate daily supervision, work in a physically separate area, and have minimal contact or interchange with other Supermarket employees. Finally, a significant portion of the M&S Department employees receives higher wages than other Supermarket employees. Therefore, the petitioned-for unit limited to M&S Department employees is appropriate. *Wal-Mart Supermarkets, Inc.*, supra; *Super K Mart Center*, supra; *Scolari's Warehouse Markets, Inc.*, supra.

Accordingly, I find the following employees constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act.

All full-time and regular part-time Meatcutters, Meat Backup, Meatwrappers, Seafood Backup and Seafood Clerks employed by the Employer in the Meat and Seafood Department at its Barnegat, New Jersey supermarket, excluding all other employees, guards and supervisors as defined in the Act.

### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently,<sup>22</sup> subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective-bargaining purposes by

**UNITED FOOD AND COMMERCIAL WORKERS  
INTERNATIONAL UNION, LOCAL 464A, AFL-CIO**

**LIST OF VOTERS**

In order to assure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that an election eligibility list, containing the **full** names and addresses of all the eligible voters, must be filed by the Employer with the Regional Director for Region Four within 7 days of the date of this Decision and Direction of Election. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be of sufficiently large type to be clearly legible. I shall, in turn, make the list available to all parties to the election. In order to be timely filed, such list must be received in the Regional Office, 615 Chestnut Street, Seventh Floor, Philadelphia, Pennsylvania 19106, on or before **May 16, 2002**. No extension of time to file this list may be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement of such list. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission. Since the list is to be made available to all parties to the election, please furnish a total of **3 copies**, unless the list is submitted by facsimile, in which case no copies need be submitted. To speed preliminary checking and the voting process itself, the names should be alphabetized (overall, or by Department, etc.). If you have any questions, please contact the Regional Office.

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<sup>22</sup> Your attention is directed to Section 103.20 of the Board's Rules and Regulations, a copy of which is enclosed. Section 103.20 provides that the Employer must post the Board's official Notice of Election at least three full working days before the election, excluding Saturdays and Sundays and that its failure to do so shall be grounds for setting aside the election whenever proper and timely objections are filed.

## **RIGHT TO REQUEST REVIEW**

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, Franklin Court, 1099 14th Street, N.W., Room 11613, Washington, D.C. 20570. This request must be received by the Board in Washington by **May 23, 2002**.

Signed: May 9, 2002

at Philadelphia, PA

/s/

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DOROTHY L. MOORE-DUNCAN

Regional Director, Region Four

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